

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: NOVEMBER 29, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: SUP-25032 - APPLICANT: SUPER AZTECA - OWNER: 3140 VALLEY VIEW, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: **APPROVAL**, subject to:

Planning and Development

1. Conformance to all of the Minimum Requirements under LVMC Title 19.04.050 for a Retail Establishment with Accessory Packed Liquor Off-Sale.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request for a Special Use Permit is to allow a Retail Establishment with Accessory Package Liquor Off-Sale at an existing General Retail Store at 3140 South Valley View Suite #3. This General Retail Store has sold beer, wine and wine coolers without incident since 09/07/2005. This General Retail Store does not have any churches, schools, child care facilities or city parks within the required 400 feet distance separation. This location is well suited for this use; staff recommends approval of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
09/07/2005	The City Council approved a Special Use Permit (SUP-7359) that allowed a Beer/Wine/Cooler, Off-Sale Establishment at 3140 South Valley View Boulevard, Suites #3-5. The Planning Commission and staff recommended approval.
12/06/2006	The City Council approved a Required Review (RQR-15420) of an approved Special Use Permit (SUP-7359) that allowed a Beer/Wine/Cooler, Off-sale establishment at 3140 South Valley View Boulevard, Suites #3-5. The Planning Commission and staff recommended approval.
<i>Related Building Permits/Business Licenses</i>	
05/22/1997	A business license (R07-104671815) was approved for a Restaurant – Seating Under 45 at 3140 South Valley View Suite #14.
10/14/1997	A business license (F02-179177198) was approved for a Finance Company at 3140 South Valley View Suite #2.
08/10/2004	A business license (M15-30801118138) was approved for Computer Sales and Service at 3140 South Valley View Suite #4.
09/02/2005	A business license (B21-8H71783) was approved for Body Piercing at 3140 South Valley View Suite #8.
06/13/2006	A business license (R09-13515128087) was approved for a Restaurant – Seating 45 or more at 3140 South Valley View Suite #7.
06/29/2006	A business licenses (G01-22574, L10-02624, C05-2471F, C20-22567) were approved for Gaming Restricted, Beer/Wine/Cooler Off-Sale, Tobacco Dealer Retail and Convention Hall Gaming Tax at 3140 South Valley View Suite #3.
08/18/2006	A business license (B08-11452129452) was approved for a Beauty/Cosmetic Sales at 3140 South Valley View Suite #1.

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10/05/2006	A business license (L01-1803127003) was approved for a Laundromat – Coin Operated at 3140 South Valley View Suite #10.
04/26/2007	A business license (W09-243133469) was approved for a Water Store at 3140 South Valley View Suite #13.
05/16/2007	A business license (C23-901506) was approved for a Check Cashing Service Limited at 3140 South Valley View Suite #3.
<i>Pre-Application Meeting</i>	
07/30/2007	A Pre-Application Meeting was held and the requirements of a Special Use Permit for a Retail Establishment with Accessory Package Liquor Off-Sale were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
10/30/07	Visited the business location and determined no distance separation waivers were required for this application.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.84

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial/Retail	Light Industrial / Research	C-1 (Limited Commercial)
North	Office	Light Industrial / Research	C-1 (Limited Commercial)
South	Office	Light Industrial / Research	C-1 (Limited Commercial)
East	Commercial/Retail	Light Industrial / Research	M (Industrial)
West	Commercial/Retail	C-T (Commercial Tourist – County)	M-1 (Light Manufacturing – County)

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts	X		
A-O (Airport Overlay) District (175')	X		Yes
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment	X		Yes
Project of Regional Significance		X	N/A

ANALYSIS

- Zoning/Use**

Per Title 19.04, a Retail Establishment with Accessory Package Liquor Off-Sale use is allowed only with an approved Special Use Permit in the C-1 (Limited Commercial) zoning District. This location is at least four hundred feet from a church, synagogue, school, child care facility licensed for twelve children, or a city park. Staff finds that the addition of a Packaged Liquor Off-Sale use to an existing General Retail Store is suitable for this location and recommends the approval of this request.

This proposed Special Use Permit is located within a General Plan designation of LI/R (Light Industrial / Research). The current zoning of C-1 does not conform to this General Plan designation. Therefore, upon any redevelopment of this site, this property must be rezoned M (Industrial), C-M (Commercial Industrial) or C-PB (Planned Business Park).

- Minimum Special Use Requirements:**

Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by requiring that:

- *1. Except as otherwise provided in this Chapter, no retain establishment accessory package liquor off-sale (hereinafter “establishment”) shall be located within four hundred feet of any church, synagogue, school, child care facility licensed for more than twelve children, or City park.

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- *2. Except as otherwise provided in Paragraph 3 below, the distances referred to in Paragraph 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Paragraph 1.
- *3. In the case of an establishment property to be located on a parcel of at least eighty acres in size, the minimum distances referred to in Paragraph 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
 - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property lines of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Paragraph 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
- 5. The minimum distance requirements in Paragraph 1 do not apply to:
 - a. An establishment which has a non-restricted gaming license in connection with a hotel having two hundred or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of two hundred guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than fifty thousand square feet of retail floor space.

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- *6. All businesses which sell alcoholic beverages shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.
- 7. The minimum distance requirements set forth in Paragraph 1, which are otherwise nonwaivable under the provisions of this subdivision, may be waived:
 - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
 - b. In accordance with the applicable provisions of the "Town Center Development Standards Manual" for any establishment which is proposed to be located within the T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan; or
 - c. In connection with a retail establishment having less than twenty thousand square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or right-of-way with a width of least one hundred feet.

Conditions denoted with an asterisk cannot be waived.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **"The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan."**

The proposed use will be located in an existing General Retail store within an existing commercial center, which is intended to have a variety of commercial uses. This includes the proposed Retail Establishment with Accessory Package Liquor Off-Sale. As there are no protected uses located within four hundred feet of the proposed use, this request can be conducted harmoniously with the surrounding land uses.

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2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The existing commercial center is suitable for the proposed Retail Establishment with Accessory Package Liquor Off-Sale. The proposed use will be located in an existing General Retail Store and will adequately be served by the commercial center’s existing parking facilities.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Access to this location is provided by South Valley View Boulevard, a Major Street (80 foot), and Capella Avenue, a Local Street (60 foot). These rights-of-way are adequate to support the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The proposed Retail Establishment with Accessory Packaged Liquor use will be subject to inspections for compliance with business licensing requirements and will not compromise the public health, safety and welfare.

5. **The use meets all of the applicable conditions per Title 19.04.**

The requested Special Use Permit for a Retail Establishment with Accessory Package Liquor Off-Sale meets all conditions as listed in Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 10

SENATE DISTRICT 7

NOTICES MAILED 549

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APPROVALS 0

PROTESTS 3